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CALIFORNIA

Worried Mojave Desert national monuments could be de-listed? Here's how to comment on Trump's review

The Sun, May 9

The U.S. Department of the Interior is asking for citizens to send in their comments regarding a review of 27 national monuments created since 1996. The White House is calling the effort the “first ever formal public comment period for members of the public to officially weigh in on monument designations under the Antiquities Act of 1906.” As ordered by President Donald Trump on April 26, Secretary Ryan Zinke will review 22 land and five water national monuments designated by Presidents Bill Clinton, George W. Bush and Barack Obama, all at least 100,000 acres or more in size.

Mojave Desert Land Trust Holds Rally to Protect CA Monuments

Palm Desert Patch, May 9

Today, Mojave Desert Land Trust (MDLT) hosted a rally with over 160 attendees standing up against the federal attacks on the California desert national monuments. The rally was held in response to the executive order signed April 26, 2017, instructing the Department of the Interior to review the designations of national monuments under the Antiquities Act. The executive order threatens the protections for the three California Desert national monuments – Castle Mountains, Sand to Snow, and Mojave Trails.

Zinke review could open 2.7M acres to development report

GREENWIRE, May 10

Boundary changes to a half-dozen national monuments could open up 2.7 million acres of land to fossil fuel extraction, according to a new analysis released by Greenpeace this morning. The environmental advocacy group compared maps of existing monuments with data from the U.S. Energy Information Administration, U.S. Geological Survey and other sources to examine areas with prospective oil, gas or coal deposits. Greenpeace identified six national monuments with the largest potential energy development: Bears Ears and Grand Staircase-Escalante in Utah, Canyons of the Ancients in Colorado, San Gabriel Mountains and Carrizo Plain in California, and the Upper Missouri River Breaks in Montana. See *PDF for full story*.

Magalia students learn the wonders and dangers of the forest during Trail Days*Action News Now, May 9*

The weather is turning warmer and the school year is nearing an end but elementary school students in Magalia have Trail Days to look forward to. These fifth graders are getting a taste of life in the forest. "They love it because they get to be outside as long as its good weather, they get to be out having fun with their friends and at the same time they're learning," said Keith Welch, education coordinator for the California Conservation Corps.

California Condor May Fly Over the Northcoast Again*Redheaded Blackbelt, May 9*

The high-flying California Condor, believed by members of the local Yurok Tribe to carry their prayers to the heavens, may once again soar overhead here on the Tribe's ancestral lands, thanks to a multi-agency effort to expand the range of this critically endangered bird. In a time when environmental concerns are being pushed aside and hopelessness grows among those who follow the numbers and observe the trends, this beacon of life's tenacity is a welcome symbol of survival.

NATIONALBack Off, Congress*US News, opinion piece, May 9*

I've written about the Bureau of Land Management's proposals to reduce methane waste before. It's hard to believe solving such an obvious problem is still a topic we need to talk about. In 2014 alone, \$444 million worth of natural gas was vented or flared from federal and tribal lands, almost all of it royalty-free. The royalty value of the gas currently being vented or flared is roughly \$50 million a year, an amount that will likely increase as production continues to grow and natural gas prices increase from their historic lows. Without an update to existing rules, taxpayers will never get a fair return for the natural gas we all own.

EPA, Interior pink slip moment a jolt of sanity*The Washington Times, May 9*

Individuals with outside agencies who have advised the Environmental Protection Agency and the Department of Interior on matters related to science for years have been handed pink slips of sorts and placed under review in recent days. And note to left, which has been trying to stir a pot over the reviews and job vacancies: This is a normal part of executive business. The pink slips are mostly being handed to those whose terms are up — whose appointed services have come to a natural end. In other words: Barack Obama would've done the same in his White House administration.

Senate Blocks Move to overturn Obama-Era Rule on Drilling

Associated Press, May 10

In a surprising win for environmentalists and Democrats and a blow to the fossil-fuel industry, the Senate on Wednesday failed in a bid to reverse an Obama-era regulation restricting harmful methane emissions that escape from oil and gas wells on federal land.

Zinke questions using monument status to save sacred land

KRQE, May 9

U.S. Interior Secretary Ryan Zinke says he values national monuments. But as he tours America's newest and most hotly contested one, he questions whether the designation by the federal government was the right way to preserve sacred tribal lands. Zinke said Monday at a news conference that Washington sometimes does things "that seem to be heavy-handed or without coordination."

Nail-biter Senate vote on methane rule set for today

E&E Daily, May 10

Even when New Mexico rancher Don Schreiber can't smell the methane waste from one of the 122 active wells surrounding his property, he can hear it. "The roaring sound of a jet engine" is how Schreiber describes the sound of waste as it's propelled through methane pressure to the well's surface. Schreiber, who participated in the decisionmaking process that resulted in the Bureau of Land Management rule that regulates methane waste on public lands, is adamantly opposed to its repeal, which the Senate will vote on today in what's expected to be a nail-biter. See *PDF for full story*.

Can Zinke follow through on his post-CRA promises?

E&E News, May 10

In correspondence persuading Sen. Rob Portman (R-Ohio) to back repeal of a federal rule to curb natural gas emissions from oil production on public land, Interior Secretary Ryan Zinke laid out a plan for how his agency would address methane waste without the Obama-era regulation. Those promises ring hollow in light of the Congressional Review Act's prohibition of a rule that is "substantially the same" as a regulation tossed under the statute, legal experts and environmental groups said yesterday. See *PDF for full story*.

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CALIFORNIA

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Greenpeace identified six national monuments with the largest potential energy development: Bears Ears and Grand Staircase-Escalante in Utah, Canyons of the Ancients in Colorado, San Gabriel Mountains and Carrizo Plain in California, and the Upper Missouri River Breaks in Montana.

"These are the spectacular landscapes whose rugged contours and breathtaking views have defined America's history and identity for centuries," Greenpeace spokesman Travis Nichols said in a statement. "They are the common heritage of everyone in our country and must be preserved for future generations."

Interior Secretary Ryan Zinke is reviewing the status of 27 national monuments and is set to issue a report by late August recommending boundary changes or wholesale rescission of monuments, or amendments to management plans.

President Trump ordered the review late last month, requiring an assessment of all monuments created since 1996 that contain over 100,000 acres, as well as individual monuments selected by the Interior secretary.

Zinke is in Utah this week visiting the Bears Ears and Grand Staircase-Escalante monuments, which have been the target of complaints from GOP state and congressional leaders.

An Interior spokeswoman could not immediately respond to a request for comment, but the agency told Greenpeace that the review is about "land management decisions" from local stakeholders.

"There is no pre-determined outcome on any monument currently under review," the Interior statement said.

Greenpeace spokesman Nichols accused Trump — who vowed to expand domestic energy extraction on public lands during his campaign — of attempting to "carve up these beautiful lands into corporate giveaways for the oil and gas industry."

But speaking from the Bears Ears monument on Monday, Zinke dismissed suggestions that the review of the nation's newest monument was prompted by desires to develop the area.

"We also have a pretty good idea of certainly the oil and gas potential: not much. So, Bears Ears isn't really about oil and gas at all," Zinke said. "There's some uranium. [I'm] more and more concerned about the present mill that's there."

NATIONAL

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"The roaring sound of a jet engine" is how Schreiber describes the sound of waste as it's propelled through methane pressure to the well's surface.

Schreiber, who participated in the decisionmaking process that resulted in the Bureau of Land Management rule that regulates methane waste on public lands, is adamantly opposed to its repeal, which the Senate will vote on today in what's expected to be a nail-biter.

"Every living thing is affected by methane and the chemicals that are released with it," Schreiber said during a Capitol Hill press conference yesterday with Democratic Sens. Maria Cantwell of Washington and Michael Bennet of Colorado, both of whom plan to oppose the resolution (H.J. Res. 36/S.J. Res. 11) that would overturn the 2016 Obama rule.

Schreiber opted to pass out photos of his family members, ranch and animals, instead of spouting numbers and data, to illustrate his point that the debate over the rule's repeal is more than economics.

"Not one of those senators has a leaking gas well on their property," said the rancher, who lives in Rio Arriba County, N.M., which borders Colorado.

"It's morally outrageous for people disconnected from the land to remove those [methane rule] protections for me, my family, and American farmers and ranchers across the West," he said,

directly criticizing Sen. Cory Gardner (R-Colo.), who has remained publicly undecided on whether he will vote to repeal the rule.

Gardner yesterday remained uncommitted when he talked to reporters. He said he had seen the letter that Interior Secretary Ryan Zinke sent Sen. Rob Portman (R-Ohio), in which he pledged to take a series of actions to reduce methane waste if Congress repeals the BLM methane rule (E&E News, May 9). Portman, who held out for months on the matter, said Zinke's commitment convinced him to support the disapproval resolution.

The Western Values Project, a Montana-based nonprofit, has filed a Freedom of Information Act request for all correspondence between Interior and Portman's office on the matter.

"I'm going to go back and study the letter," said Gardner. "Colorado has its own methane rule in place, but the Interior letter was a positive development."

Colorado in 2014 implemented what are considered stringent regulations on methane emissions from oil and gas flaring, venting and leakage. The BLM methane rule, which took three years to finalize, was based on Colorado's rule.

"Colorado would feel not only that our work was being disrespected, but that our economy and our health were being threatened if this [BLM] rule was taken away," Bennet said during the press conference, arguing that the federal rule helped regulate emissions from neighboring states, like New Mexico, that don't have corresponding state regulations.

Gwen Lachelt, a county commissioner in La Plata County, Colo., near the New Mexico border, reinforced that point. "Colorado has a really strong rule, and that's great for Colorado, but that rule in Colorado is absolutely meaningless for my county," Lachelt said. "We need the BLM rule."

Schreiber agreed. "We airmail methane to the state of Colorado regardless of their rule," the New Mexico rancher said. "It's not EPA air, it's not BLM air, it's not Colorado Oil and Gas Commission air; it's just air."

Both Bennet and Lachelt said the methane rule also has helped Colorado's economy by creating more jobs in methane mitigation and attracting more oil and gas development.

Today's vote

Senate Majority Leader Mitch McConnell (R-Ky.) is expected to move to proceed with the resolution of disapproval this morning. A procedural vote will likely follow.

If that is successful, debate is expected to take most of the day and beyond. Under the Congressional Review Act, resolutions are limited to 10 hours of debate, equally divided.

Cantwell, ranking member of the Energy and Natural Resources Committee, said yesterday that Democrats planned to use all of their allotted time.

With two GOP senators — Maine's Susan Collins and South Carolina's Lindsey Graham — expected to oppose the resolution, the margin of error for Republicans is razor-thin, but Portman's support helps the measure's prospects. Sen. Heidi Heitkamp (D-N.D.) reiterated yesterday to reporters that she's still undecided.

It's possible Republicans will have to rely on Vice President Mike Pence to cast a tie-breaking vote in favor of the resolution, especially since some corn-state senators injected uncertainty into the mix last week when news emerged that they had been trying to use the methane rule vote as possible leverage to encourage their colleagues to support a waiver of seasonal restrictions on the sale of higher-blend ethanol (E&E Daily, May 3).

Sen. John Hoeven (R-N.D.) said yesterday that he was "hopeful and optimistic" that Republicans would have the votes to pass the resolution today. "I think we are going to be OK, but again, I'm always cautious and careful. Until we have the vote, it's not for sure."

Former Environment and Public Works Chairman Jim Inhofe (R-Okla.) expressed confidence in the resolution's passage to reporters yesterday.

He said, "One thing you learn around here is that they don't bring something up unless they know the votes are there. So I'd have to answer your question, yes."

Can Zinke follow through on his post-CRA promises?

E&E News, May 10

In correspondence persuading Sen. Rob Portman (R-Ohio) to back repeal of a federal rule to curb natural gas emissions from oil production on public land, Interior Secretary Ryan Zinke laid out a plan for how his agency would address methane waste without the Obama-era regulation.

Those promises ring hollow in light of the Congressional Review Act's prohibition of a rule that is "substantially the same" as a regulation tossed under the statute, legal experts and environmental groups said yesterday.

"Secretary Zinke claims that if Congress nullifies the protections that BLM has put in place to reduce wasteful methane venting and flaring on our public lands, he will issue new guidance or

rules that will achieve the same end. This is an empty promise," said David Hayes, a senior fellow at the Center for American Progress and former deputy secretary of the Interior during the Clinton and Obama administrations.

"Industry lawyers are standing by to argue that because of congressional action, the department has no authority to protect taxpayers and the public from the continued waste of valuable public resources," Hayes said.

In his Thursday letter to Ohio's junior senator, Zinke pledged to assess all of Interior's venting and flaring requirements, bolster incentives for methane capture, and expedite approvals for infrastructure to carry excess gas to market.

Interior could also update its Notice to Lessees 4A (NTL-4A) to "take concrete action to reduce methane waste," Zinke wrote.

The secretary's promises convinced Portman — who had previously been publicly undecided on the issue — to back a CRA resolution doing away with BLM's methane rule (E&E Daily, May 9).

"I believe that the Interior Department should do more to prevent methane venting and flaring on federal lands," Portman wrote in a Monday statement. "The Secretary of the Interior has made clear in a letter to me that the Department is committed to acting on this important issue going forward, and he has outlined specific actions it would take to do that."

But Zinke's plan to address methane through the NTL-4A could be legally fraught, dozens of law professors wrote to Senate leadership this week (Energywire, May 9).

"[T]here is a serious legal question whether the Interior Secretary can impose new requirements on lessees by simply revising the existing Notice to Lessees," their letter said. "The CRA clearly provides that, if the Waste Prevention Rule is overturned by CRA resolution, the Interior Department becomes legally prohibited from adopting new rules that are 'substantially the same' as the regulations overturned, unless Congress specifically provides the Department with such authority in new legislation."

"The meaning of that limitation is unknown as no court has yet interpreted it."

John Ruple, associate law professor at the University of Utah and one of the letter's signatories, said the legal implications of Zinke's proposal are murky.

"The over-energetic use of the CRA by Congress is potentially dangerous, since the agency that promulgated the rule at issue is prohibited from putting forward a 'substantially similar' replacement — and no one really knows what that means. Facing budget scrutiny and uncertainty regarding their legal footing, it is hard to imagine agencies acting quickly to fill the void created by use of the CRA — especially when agencies are supposed to eliminate two regulations for each new rule they issue," he said in a statement yesterday. "I am concerned that the Department of the Interior may not be able to deliver on the promise of a meaningful replacement."

Methane authority

Industry groups have asked Interior to stay out of methane control altogether.

"There are efforts already underway by the EPA to regulate methane emissions and ensure a fair and equitable return to the American taxpayers," said Dan Naatz, senior vice president of government relations and political affairs at the Independent Petroleum Association of America. "Using the Mineral Leasing Act to regulate air emissions is a non-starter."

Because most of Zinke's strategies would not require a new rulemaking, his promises stand on solid ground, said Kathleen Sgamma, president of the Western Energy Alliance. Updating the NTL-4A is still within BLM's authority, even if the methane rule disappears, she said.

"Apparently the only threat of litigation to subsequent actions by Secretary Zinke to keep these promises to Senator Portman would come from these same environmental groups, a truly twisted result from what they claim to want," Sgamma said.

The item on Zinke's list that would offer the most effective change is to approve pipeline rights of way — which could be done in a matter of days, she said.

The Environmental Defense Fund (EDF) questioned whether Zinke's proposals would have the effect of reducing methane emissions.

Two of the strategies — assess venting and flaring requirements and eliminate duplicative federal flaring restrictions — would have zero impact on curbing escaped gas, the group wrote in its own letter to Portman.

"Overall, the letter does not identify a single specific 'concrete action' that the Secretary might take to reduce waste," EDF wrote. "The Secretary asks you to accept a page of vague and unfounded assurances in lieu of an 80-page technical rule, enforceable by law."

EDF asked Portman to reconsider his support of the resolution.

A long-delayed Senate vote is expected today.